

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

PAUL DEWAYNE THIBODEAUX §
v. § CIVIL ACTION NO. 6:12cv362
JAMES CONTREAL, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ORDER OF ADMINISTRATIVE CLOSING

The Plaintiff Paul Thibodeaux, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Thibodeaux complained of an incident which occurred on July 28, 2011, in which he had an altercation with TDCJ officers. At an evidentiary hearing, Thibodeaux testified that he was facing criminal charges in state court concerning this altercation, and that this criminal case was awaiting trial.

On August 29, 2012, the Magistrate Judge issued a Report recommending that the lawsuit be administratively closed, noting that where a prisoner has filed a civil rights lawsuit covering the same subject matter as pending state court criminal charges, the federal district court should stay the civil lawsuit until the criminal charges are resolved. Lewis v. Beddingfield, 20 F.3d 123 (5th Cir. 1994). Thibodeaux did not file objections to this Report; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and testimony in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 10) is ADOPTED as the opinion of the District Court. It is further

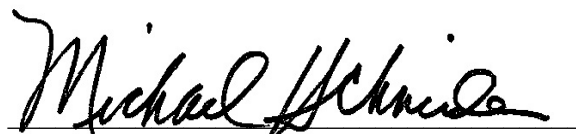
ORDERED that the above-styled civil action be and hereby is ADMINISTRATIVELY CLOSED and placed on an inactive docket for administrative and statistical purposes. This case shall be reopened at such time as the criminal proceedings against Thibodeaux have been finally resolved, either through an acquittal or dismissal of the charges or at such time as his direct appeals have become final. The administrative closing of this case shall not affect the substantive rights of any party thereto. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED. Finally, it is

ORDERED that no motions or other documents may be filed in this case, until such time as the case is reopened, except for notices of changes of address, a motion for voluntary dismissal of the lawsuit, or a motion to reopen the case once the pending criminal charges are resolved. Any other motions or other documents may be returned by the Clerk unfiled or stricken from the docket.

It is SO ORDERED.

SIGNED this 5th day of October, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE